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EXAMINER				
ROBINSON, GRETA LEE				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/037,445

Applicant(s)

MARTINO ET AL.

Examiner

Greta L. Robinson

Art Unit

2169

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,8-11,13-15 and 21-23 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,3-6,8-11,13-15 and 21-23 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 11 September 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. Claims 1, 3-6, 8-11, 13-15 and 21-23 are pending in the present application.
2. Claims 1, 3, 4-6, 8-11, 13-15 and 21-23 have been amended. Claims 2, 7, 12, 16-20 and 24 have status cancelled.

Drawings

3. The drawings were received on September 11, 2008. These drawings are acceptable.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1, 3-6, 8-11, 13-15, and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hiyoshi US Patent 6,601,067 B1 in view of Schindler US Patent 6,199,064 B1.

Regarding claim 1, Hiyoshi teaches a system for producing a list of results, the system comprising "an input for receiving a plurality of items ... a sort controller receiving a plurality of information items regarding content" note *sort/merge processor 10* figure 1. Hiyoshi teaches *input files* for receiving a plurality of information, information is read through *file reading unit 15* figure 1. Hiyoshi teaches ability to "display the list of results", and "means for sorting information items" through the sort controller note *sort/merge execution unit 18* figure 1, also see column 4 lines 10-20. Hiyoshi does not specifically teach "primary sort key and a secondary sort key derived from predetermined user sorting preferences for a current user task context and content type"; however this feature is taught by Schindler. Schindler teaches items are sorted by the value of their context and that the context is used to define the primary sort key and the secondary sort key [see: column 7 lines 45-65 items are sorted by the value of their context; column 8 lines 39-66; and column 11 lines 30-39 "using the context to define the primary sort key" and "deriving a secondary sort key"]. It would have been obvious to one of ordinary skill at the time of the invention to have combined Schindler with Hiyoshi because Schindler teaches how the primary and secondary sort keys are derived from a function of the context for sorting which is predetermined.

6. Regarding claim 3, "wherein a primary sort key is selected by the user and a secondary sort key is selected based on the nature of the current user task" [note: Hiyoshi Figure 1 rule setting unit 14 and extraction criteria 13; also note Schindler, col. 11 lines 29-39].
7. Regarding claim 4, "wherein a change in the current user task context is inferred from a change of the primary sort key by the user" [see: Schindler Figure 9 (435)].
8. Regarding claim 5, "wherein the plurality of information items are displayed on said display in an order determined by the sort controller" [note: Hiyoshi, column 4 lines 28-32 and lines 53-55].
9. The limitations of claims 6 and 8-10 have been addressed above except for the following: an audio receiver, Internet access, and remote control device [note: Hiyoshi input device 28 figure 2, column 5 lines 25-34].
10. The limitations of method claims 11 and 13-15 parallel system claims 1 and 3-5; therefore they are rejected under the same rationale.
11. Regarding claims 21-23, a user interface communicably coupled to the sort controller for receiving user input identifying the current user task context [note: Hiyoshi, column 4 lines 40-55; also note interface 26 Figure 2].

12. Claims 1, 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young et al. US Patent Application No. 2003/0159147 A1 in view of Burkhard US Patent 5,924,091. (note: Burkhard was cited on form PTO-892 paper no.0425005)

Regarding claim 1, Young et al. teaches a system for producing a list of results [note: "FIGS. 14-17 show Theme function screen 104. The Theme function allows the viewer to quickly sort the downloaded schedule and display a subset schedule based on a subject of interest" paragraph 108], the system comprising:

an input for receiving a plurality of information items regarding content [note: page 16 left column lines 3-5 "means for inputting"; also see Figures 21, 22A; paragraphs 0135, 0079 and 0051-0057];

a sort controller coupled to the input, said sort controller comprising means for deriving [note: paragraph 0135 "system/controller 180"; paragraphs 0156, 0165, 0169 and 0175],

a primary sort key and a secondary sort key from predetermined user sorting preferences doe a current user task context and content type for the information items, and means for sorting the information items using said primary sort key and said secondary sort key in order to produce a list of results [note: paragraph 118 "allow logical sorting of the schedule" ; paragraph 0108 "listings sorted first by major themes, second by topic(s) within a theme"];

and display for displaying said list of results for a user [see: Figure 28A display].

Although Young et al. teaches the invention substantially as cited above, they do not explicitly teach a primary sort key and a secondary sort key. However, Burkhard teaches a primary sort key and a secondary sort key so that additional information may be associated with each key [see: column 9 line 39 through column 10 line 6]. It would have been obvious to one of ordinary skill at the time of the invention to have combined Burkhard with Young et al. since radix sorting is a well known sorting technique, and would allow first and secondary topics selected in Young et al. to be properly identified for sorting.

13. The limitations of claim 6 have been addressed in claim 1 except for the following: an audio receiver, Internet access, and remote control device [note: Young et al. paragraph 0141 note remote controller 212, TV device and CPU 228].

14. The limitations of method claim 11 parallel system claim 1; therefore it is rejected under the same rationale.

Response to Arguments

15. Applicant's arguments filed September 11, 2008 have been fully considered but they are not persuasive.

In the response Applicant argued, independent claims 1, 6 and 11 recite a *primary sort key and a secondary sort keys derived from predetermined user sorting preferences for current user task context and a content type*. Applicant argues the prior art does not teach means for deriving the primary sort key and secondary sort key as

claimed. In response the examiner respectfully maintains the rejection. Note the present invention's disclosure appears to define **deriving** sort keys as the ability to set the system by default and/or keys are derived from user histories see page 14 lines 23 through page 15 line 21. Hiyoshi teaches a criteria setting unit and rule setting unit that provides means for defining rules with respect to system see abstract and column 2 lines 33-48. Secondary reference, Schindler teaches "using the context to define the primary sort key" and "deriving a secondary sort key" see column 11 lines 30-39. Schindler et al. uses the position of the data as a sort key [column 1 lines 47-54]; however the relationship of the keys are based on implementation of code or a particular algorithm [see: col. 1 lines 55-67; and prototype pseudo-code fragments col. 7 and 8]. Schindler's teaching of the *ability to define the sort key* provides for the limitation of "predetermined user preference". Schindler provides for the concept of information items being sorted by the value of their context through bucketsort function and gives an example see column 7 lines 45-65 and Figure 9 step 425 SORT DATA BY CONTEXT. Note, the value of the context is seen as the content. Like the present invention, in Schindler the task context infers the content type [see: original specification page 2 lines 18-20 "a sort tool employing context-dependent primary and secondary sort keys among and across content types"]. Schindler et al. teaches the optional use of a *secondary index* to sort larger blocks of data for a particular sorting task [see: column 9 lines 25-64]. The sorting preferences are predetermined because they are defined by the end user through code.

Also, regarding claims 1, 6 and 11 rejected under 35 USC 103(a) Young et al. in view of Burkhard. Young et al. teaches default setting means for the system (i.e. deriving sort keys through predefined setting ability) see paragraphs 0111, 0156, 0165, 0169 and 0175.

Applicant is reminded that during patent examination the pending claims are given the broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F. 3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim. In the present case a statement of intended use or field of use is not limiting.

Applicant's amendment and remarks overcomes rejections cited under 35 USC 101 and 35 USC 112 second paragraph.

Conclusion

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greta L. Robinson whose telephone number is (571)272-4118. The examiner can normally be reached on M-F 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tony Mahmoudi can be reached on (571)272-4078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Greta L. Robinson/
Primary Examiner, Art Unit 2169a
December 2, 2008